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Subject to Legal Review for Clarity and Consistency

CHAPTER 10 : FINANCIAL SERVICES

Preliminary Consolidation: Undergoing review within both governments

ARTICLE 10.1 : SCOPE AND COVERAGE

1. This Chapter applies to measures by a Party relating to:
 - (a) financial institutions of the other Party;
 - (b) investors of the other Party, and investments of such investors, in financial institutions in the Party's territory; and
 - (c) cross-border trade in financial services.
2. Chapters 8 (cross-border trade in services) and 15 (investment) apply to measures described in Paragraph 1 only to the extent that such Chapters or Articles of such Chapters are incorporated into this Chapter. Articles 8.11, 15.06, 15.07, 15.10, 15.11 and 15.13 (relating, for example, to expropriation¹, denial of benefits, transfers, special formalities and environmental measures from Investment Chapter and denial of benefits from services chapter) are hereby incorporated into and made a part of this Chapter. Articles 15.14 through 15.25 (relating to investor-state dispute settlement) are hereby incorporated into and made a part of this Chapter solely for breaches by a Party of the obligations of Articles 15.06, 15.07, 15.10, 15.11 and 15.13 (expropriation, denial of benefits, transfers, special formalities and environmental measures from Investment Chapter), as incorporated into this Chapter. Article 8.10 (relating to transfers with respect to cross-border trade in services), is incorporated into this Chapter to the extent that cross-border trade in financial services is subject to obligations pursuant to Article 10.5 (relating to cross-border trade in financial services).
3. This Chapter does not apply to measures by a Party relating to:
 - (a) activities or services forming part of a public retirement plan or statutory system of social security; or
 - (b) activities or services conducted for the account or with the guarantee or using the financial resources of the Party, including its public entities,except that this Chapter shall apply if a Party allows any of the activities or services referred to in paragraphs 3(a) or 3(b) to be conducted by its financial institutions in competition with a public entity or a financial institution.
4. This Chapter does not apply to laws, regulations or requirements governing the procurement by governmental agencies of financial services purchased for governmental purposes and not with a view to commercial resale or with a view to use in the supply of services for commercial sale.

¹ The Parties intend that the obligations of Article 15.06 (Expropriation) be incorporated into this Chapter in a manner consistent with relevant materials referred to in Article 15.26.

DRAFT**Subject to Legal Review for Clarity and Consistency****ARTICLE 10.2 : NATIONAL TREATMENT**

1. Each Party shall accord to investors of the other Party treatment no less favorable than that it accords to its own investors, in like circumstances, with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of financial institutions and investments in financial institutions in its territory.
2. Each Party shall accord to financial institutions of the other Party and to investments of investors of the other Party in financial institutions treatment no less favorable than that it accords to its own financial institutions, and to investments of its own investors in financial institutions, in like circumstances, with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of financial institutions and investments.
3. For purposes of the national treatment obligations in paragraph 1 of Article 10.5 (cross-border trade in financial services), a Party shall accord to cross-border financial service suppliers of the other Party treatment no less favorable than that it accords to its own financial service suppliers, in like circumstances, with respect to the supply of the relevant service.

ARTICLE 10.3: MOST FAVORED NATION TREATMENT

1. Each Party shall accord to investors of the other Party, financial institutions of the other Party, investments of investors in financial institutions, and cross-border financial service suppliers of the other Party treatment no less favorable than that it accords to the investors, financial institutions, investments of investors in financial institutions and cross-border financial service suppliers of a non-Party, in like circumstances.
2. A Party may recognize prudential measures of the other Party or of a non-Party in the application of measures covered by this Chapter. Such recognition may be:
 - (a) accorded unilaterally;
 - (b) achieved through harmonization or other means; or
 - (c) based upon an agreement or arrangement with a non-Party.
3. A Party according recognition of prudential measures under paragraph 2 shall provide adequate opportunity to the other Party to demonstrate that circumstances exist in which there are or would be equivalent regulation, oversight, implementation of regulation, and, if appropriate, procedures concerning the sharing of information between the Parties.
4. Where a Party accords recognition of prudential measures under paragraph 2(c) and the circumstances set out in paragraph 3 exist, the Party shall provide adequate opportunity to the other Party to negotiate accession to the agreement or arrangement, or to negotiate a comparable agreement or arrangement.

DRAFT**Subject to Legal Review for Clarity and Consistency****ARTICLE 10.4 : MARKET ACCESS FOR FINANCIAL INSTITUTIONS**

Measures by a Party shall not, with respect to financial institutions of the other Party, either on the basis of a regional subdivision or on the basis of its entire territory:

- (a) impose limitations on:
 - (i) the number of financial institutions whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirements of an economic needs test;
 - (ii) the total value of financial service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;
 - (iii) the total number of financial service operations or on the total quantity of financial services output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test;
 - (iv) the total number of natural persons that may be employed in a particular financial service sector or that a financial institution may employ and who are necessary for, and directly related to, the supply of a specific financial service in the form of a numerical quota or the requirement of an economic needs test; or
- (b) restrict or require specific types of legal entity or joint venture through which a financial institution may supply a service.

ARTICLE 10.5: CROSS-BORDER TRADE

1. Each Party shall permit cross-border financial service suppliers of the other Party to supply, under terms and conditions that accord national treatment, the services it has specified in Annex 10.5.1.

2. Each Party shall permit persons located in its territory, and its nationals wherever located, to purchase financial services from cross-border financial service suppliers of the other Party located in the territory of that other Party. This obligation does not require a Party to permit such suppliers to do business or solicit in its territory. Subject to paragraph 1, each Party may define “doing business” and “solicitation” for purposes of this obligation.

ARTICLE 10.6: NEW FINANCIAL SERVICES

Each Party shall permit a financial institution of the other Party to supply any new financial service that the first Party would permit its own financial institutions, in like circumstances, to supply without additional legislative action. Notwithstanding Article 10.4(b), a Party may determine the institutional and juridical form through which the new financial service may be

DRAFT

Subject to Legal Review for Clarity and Consistency

supplied and may require authorization for the supply of the service. Where such authorization of the new financial service is required, a decision shall be made within a reasonable time and the authorization may only be refused for prudential reasons.¹⁰⁻²

ARTICLE 10.7: TREATMENT OF CONFIDENTIAL INFORMATION

Nothing in this Chapter requires a Party to furnish or allow access to:

- (a) information related to the financial affairs and accounts of individual customers of financial institutions or cross-border financial service suppliers; or
- (b) any confidential information, the disclosure of which would impede law enforcement or otherwise be contrary to the public interest or prejudice legitimate commercial interests of particular institutions.

ARTICLE 10.8: SENIOR MANAGEMENT AND BOARDS OF DIRECTORS

1. A Party may not require financial institutions of the other Party to engage individuals of any particular nationality as senior managerial or other essential personnel.
2. A Party may not require that more than a simple majority of the board of directors of a financial institution of the other Party be composed of nationals of the Party, persons residing in the territory of the Party, or a combination thereof.

ARTICLE 10.9: NON-CONFORMING MEASURES

1. Articles 10.2 through 10.5 and 10.8 (National Treatment, Most Favored Nation Treatment, Market Access, Cross-Border Trade, Senior Management/Boards of Directors) do not apply to:

- (a) any existing non-conforming measure that is maintained by a Party at:
 - (i) the central level*, and set out by that Party in its Schedule to Annex __,
 - (ii) a regional level**, and set out by that Party in its Schedule to Annex __,
 - or
 - (iii) a local government level;
- (b) the continuation or prompt renewal of any non-conforming measure referred to in subparagraph (a); or
- (c) an amendment to any non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the

¹⁰⁻² It is understood that nothing in Article 10.6 (New Financial Services) prevents a financial institution of a Party from applying to the other Party to consider authorizing the supply of a financial service that is supplied in the territory of neither Party. Such application shall be subject to the domestic law of the Party to which the application is made and shall not be subject to the obligations of Article 10.6.

DRAFT

Subject to Legal Review for Clarity and Consistency

measure, as it existed immediately before the amendment, with Articles 10.2 through 10.4 and 10.8 (National Treatment, Most Favored Nation Treatment, Market Access, Senior Management/Boards of Directors).

2. Annex 10.9.2 sets out certain specific commitments by each Party.

3. Where a Party has set out a non-conforming measure with respect to Articles 8.4, 8.5 and 15.04 (National Treatment and Most Favored Nation Treatment provisions of Investment and Services chapters) in its Schedule to [Annexes relating to the Investment and Services Chapters], the non-conforming measure shall be deemed to constitute a non-conforming measure with respect to Article 10.2 (National Treatment) or Article 10.3 (Most Favored Nation Treatment), as the case may be, to the extent that the measure, sector, sub-sector or activity set out in the schedule of non-conforming measures is covered by this Chapter.

* For the U.S., “central level” means the federal level. For Singapore, “central level” means the national level.

** For the U.S., “regional level” means the 50 states, the District of Columbia and Puerto Rico. Singapore has no government at the regional level. For Singapore, “local government level” means entities with sub-national legislative or executive powers under domestic law, including Town Councils and Community Development Councils.

ARTICLE 10.10: EXCEPTIONS

1. Notwithstanding any other provision of Chapters __ (investment, [services], telecoms, financial services, [competition], [temporary entry], e-commerce), including Article 9.15 (relationship to other chapters) of the Telecommunications Chapter, a Party shall not be prevented from taking measures for prudential reasons¹⁰⁻³, including for the protection of investors, depositors, policy holders or persons to whom a fiduciary duty is owed by a financial institution or cross border financial service supplier, or to ensure the integrity and stability of the financial system. Where such measures do not conform with the provisions of the Agreement, they shall not be used as a means of avoiding the Party’s commitments or obligations under the Agreement.

2. Nothing in Chapters __ (investment, [services], telecoms, financial services, [competition], [temporary entry], e-commerce) applies to non-discriminatory measures of general application taken by any public entity in pursuit of monetary and related credit policies or exchange rate policies. This paragraph shall not affect a Party’s obligations under Article 15.08 (Performance Requirements) with respect to measures covered by Articles 8.10 and 15.07 (Transfers).

3. Notwithstanding Articles 8.10 and 15.07 (Transfers), as incorporated into this Chapter, a Party may prevent or limit transfers by a financial institution or cross-border

¹⁰⁻³ Interpretive Note with Respect to Article 10.10.1: It is understood that the term “prudential reasons” includes the maintenance of the safety, soundness, integrity or financial responsibility of individual financial institutions or cross-border financial service suppliers.

DRAFT

Subject to Legal Review for Clarity and Consistency

financial service supplier to, or for the benefit of, an affiliate of or person related to such institution or supplier, through the equitable, non-discriminatory and good faith application of measures relating to maintenance of the safety, soundness, integrity or financial responsibility of financial institutions or cross-border financial service suppliers. This paragraph does not prejudice any other provision of this Agreement that permits a Party to restrict transfers.

4. For greater certainty, nothing in this Chapter shall be construed to prevent the adoption or enforcement by a Party of measures necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Chapter including those relating to the prevention of deceptive and fraudulent practices or to deal with the effects of a default on financial services contracts, subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail, or a disguised restriction on investment in financial institutions or cross-border trade in financial services.

ARTICLE 10.11: TRANSPARENCY

1. The Parties agree that transparent regulations and policies governing the activities of financial institutions and cross-border financial service suppliers are important in facilitating both access of foreign financial institutions and foreign cross-border financial service suppliers to, and their operations in, each other's markets. Both Parties commit to promote regulatory transparency in financial services. Accordingly, the Financial Services Committee shall consult with the goal of promoting objective and transparent regulatory processes, taking into account (1) the work undertaken by the Parties in the General Agreement on Trade in Services and the Parties' work in other fora relating to trade in financial services and (2) the importance for regulatory transparency of identifiable policy objectives and clear and consistently applied regulatory processes that are communicated or otherwise made available to the public.

2. In lieu of Articles 19.3.2 [general transparency provision on new measures], each Party shall, to the extent practicable,

- (a) publish in advance any regulations of general application relating to the subject matter of this Chapter that it proposes to adopt;
- (b) provide interested persons and the other Party a reasonable opportunity to comment on such proposed regulations.

3. Each Party's regulatory authorities shall make available to interested persons their requirements, including any documentation required, for completing applications relating to the provision of financial services.

4. On the request of an applicant, the regulatory authority shall inform the applicant of the status of its application. If such authority requires additional information from the applicant, it shall notify the applicant without undue delay.

5. A regulatory authority shall make an administrative decision on a completed application of an investor in a financial institution, a financial institution or a cross-border

DRAFT

Subject to Legal Review for Clarity and Consistency

financial service supplier of another Party relating to the supply of a financial service within 120 days, and shall promptly notify the applicant of the decision. An application shall not be considered complete until all relevant hearings are held and all necessary information is received. Where it is not practicable for a decision to be made within 120 days, the regulatory authority shall notify the applicant without undue delay and shall endeavor to make the decision within a reasonable time thereafter.

6. Each Party shall maintain or establish appropriate mechanisms that will respond to inquiries from interested persons regarding measures of general application.

7. Each Party shall ensure that the rules of general application adopted or maintained by Self-Regulatory Organizations of the Party are promptly published or otherwise made available in such a manner as to enable interested persons to become acquainted with them.

8. To the extent practicable, each Party should allow reasonable time between publication of final regulations and their effective date.

9. At the time it adopts final regulations, a Party should, to the extent practicable, address in writing substantive comments received from interested persons with respect to the proposed regulations.

ARTICLE 10.12: SELF-REGULATORY ORGANIZATIONS

Where a Party requires a financial institution or a cross-border financial service supplier of the other Party to be a member of, participate in, or have access to, a self-regulatory organization to provide a financial service in or into the territory of that Party, the Party shall ensure observance of the obligations of Articles 10.2 (National Treatment) and 10.3 (Most Favored Nation Treatment) of this Chapter by such self-regulatory organization.

ARTICLE 10.13: PAYMENT AND CLEARING SYSTEMS

Under terms and conditions that accord national treatment, each Party shall grant to financial institutions of the other Party established in its territory access to payment and clearing systems operated by public entities, and to official funding and refinancing facilities available in the normal course of ordinary business. This paragraph is not intended to confer access to the Party's lender of last resort facilities.

ARTICLE 10.14: DOMESTIC REGULATION

[Subject to any non-conforming measures listed in its schedule,] [S: Art 10.9 on Non-conforming measures does not refer to Art 10.14, and neither party has made reservations to this Article.] each Party shall ensure that all measures of general application to which this Chapter applies are administered in a reasonable, objective and impartial manner.

ARTICLE 10.15: EXPEDITED AVAILABILITY OF INSURANCE SERVICES

DRAFT

Subject to Legal Review for Clarity and Consistency

The Parties recognize the importance of maintaining and developing regulatory procedures to expedite the offering of insurance services by licensed suppliers. The Parties recognize the importance of consulting, as necessary, regarding any such initiatives.

ARTICLE 10.16: FINANCIAL SERVICES COMMITTEE

1. The Parties hereby establish a Financial Services Committee. The principal representative of each Party shall be an official of the Party's authority responsible for financial services set out in Annex 10.16.¹⁰⁻⁴

2. The Committee shall:

- (a) supervise the implementation of this Chapter and its further elaboration;
- (b) consider issues regarding financial services that are referred to it by a Party; and
- (c) participate in the dispute settlement procedures in accordance with Article 10.18.

3. The Committee shall meet annually, or as otherwise agreed, to assess the functioning of this Agreement as it applies to financial services. The Committee shall inform the Joint Committee of the results of each meeting.

ARTICLE 10.17: CONSULTATIONS

1. A Party may request consultations with the other Party regarding any matter arising under this Agreement that affects financial services. The other Party shall give sympathetic consideration to the request. The consulting Parties shall report the results of their consultations to the Committee.

2. Consultations under this Article shall include officials of the authorities specified in Annex 10.16.

ARTICLE 10.18: DISPUTE SETTLEMENT

1. Article 20.4 (Administrative and Dispute Settlement) applies as modified by this Article to the settlement of disputes arising under this Chapter.

2. When a Party claims that a dispute arises under this Chapter, Article 20.4.4(a) (regarding Panel Selection) shall apply, except that:

¹⁰⁻⁴ Unless otherwise provided, references in this Chapter to "Committee" refer to the Financial Services Committee.

DRAFT

Subject to Legal Review for Clarity and Consistency

- (a) where the Parties so agree, the panel shall be composed entirely of panelists meeting the qualifications in paragraph 3;
 - (b) in any other case,
 - (i) each Party may select panelists meeting the qualifications set out in paragraph 3 or Article 20.4.4(c) (Qualifications of Panelists), and
 - (ii) if the Party complained against invokes Article 10.10 (Exceptions), the chair of the panel shall meet the qualifications set out in paragraph 3.
3. Financial services panelists shall:
- (a) have expertise or experience in financial services law or practice, which may include the regulation of financial institutions;
 - (b) be chosen strictly on the basis of objectivity, reliability and sound judgment; and
 - (c) meet the qualifications set out in Articles 20.4.4(c)(ii) and 20.4.4(c)(iii) (Roster, Qualifications of Panelists).
4. Notwithstanding Article 20.6 (Non-implementation), where a measure under dispute affects:
- (a) only the financial services sector, the complaining Party may suspend benefits only in the financial services sector;
 - (b) the financial services sector and any other sector, the complaining Party may suspend benefits in the financial services sector that have an effect equivalent to the effect of the measures in the Party's financial services sector; or
 - (c) only a sector other than the financial services sector, the complaining Party may not suspend benefits in the financial services sector.

ARTICLE 10.19: INVESTMENT DISPUTES IN FINANCIAL SERVICES

1. Where an investor of one Party submits a claim under Articles 15.4 through 15.25 (Investor/State Dispute Settlement) against the other Party and the respondent invokes Article 10.10 (Exceptions), on request of the respondent, the relevant arbitration tribunal (hereinafter "tribunal") shall refer the matter in writing to the Financial Services Committee for a decision. The tribunal may not proceed pending receipt of a decision or report under this Article.

2. In a referral pursuant to paragraph 1, the Committee shall decide the issue of whether and to what extent Article 10.10 (Exceptions) is a valid defense to the claim of the investor. The Committee shall transmit a copy of its decision to the tribunal and to the Joint Committee. The decision shall be binding on the tribunal.

DRAFT

Subject to Legal Review for Clarity and Consistency

3. Where the Financial Services Committee has not decided the issue within 60 days of the receipt of the referral under paragraph 1, the respondent or the Party of the claimant may request the establishment of an arbitral panel under Article 20.4.4. The panel shall be constituted in accordance with Article 10.18 (Dispute Settlement). The panel shall transmit its final report to the Committee and to the tribunal. The report shall be binding on the tribunal.

4. Where no request for the establishment of a panel pursuant to paragraph 3 has been made within 10 days of the expiration of the 60-day period referred to in paragraph 3, a tribunal established pursuant to Articles 15.18 (Investor/State Dispute Settlement) may proceed to decide the matter.

ARTICLE 10.20: DEFINITIONS

For purposes of this Chapter:

cross-border financial service supplier of a Party means a person of a Party that is engaged in the business of supplying a financial service within the territory of the Party and that seeks to supply or supplies financial services through the cross-border supply of such services;

cross-border supply of a financial service or cross-border trade in financial services means the supply of a financial service:

- (a) from the territory of one Party into the territory of the other Party,
- (b) in the territory of one Party by a person of that Party to a person of the other Party, or
- (c) by a national of one Party in the territory of the other Party,

but does not include the supply of a service in the territory of a Party by an investment in that territory;

financial institution means any financial intermediary or other institution, that is authorized to do business and regulated or supervised as a financial institution under the law of the Party in whose territory it is located;

financial institution of the other Party means a financial institution, including a branch, located in the territory of a Party that is controlled by persons of the other Party;

financial service means any service of a financial nature. Financial services include all insurance and insurance-related services, and all banking and other financial services (excluding insurance), as well as services incidental or auxiliary to a service of a financial nature. Financial services include the following activities:

Insurance and insurance-related services

- a) Direct insurance (including co-insurance):
 - i life
 - ii non-life
- b) Reinsurance and retrocession;
- c) Insurance intermediation, such as brokerage and agency;

DRAFT

Subject to Legal Review for Clarity and Consistency

- d) Service auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services.

Banking and other financial services (excluding insurance)

- e) Acceptance of deposits and other repayable funds from the public;
- f) Lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transactions;
- g) Financial leasing;
- h) All payment and money transmission services, including credit, charge and debit cards, travelers checks and bankers drafts;
- i) Guarantees and commitments;
- j) Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:
 - i money market instruments (including checks, bills, certificates of deposits);
 - ii foreign exchange;
 - iii derivative products including, but not limited to, futures and options;
 - iv. exchange rate and interest rate instruments, including products such as swaps, forward rate agreements;
 - v transferable securities;
 - vi other negotiable instruments and financial assets, including bullion;
- k) Participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and supply of services related to such issues;
- l) Money broking;
- m) Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;
- n) Settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;
- o) Provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services;
- p) Advisory, intermediation and other auxiliary financial services on all the activities listed in subparagraphs (e) through (o), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy.

financial service supplier of a Party means a person of a Party that is engaged in the business of supplying a financial service within the territory of that Party;

new financial service means a financial service not supplied in the territory of the first Party in Article 10.6 (New Financial Services) that is supplied within the territory of the other Party, and includes any new form of delivery of a financial service or the sale of a financial product that is not sold in the first Party's territory.

investment means "investment" as defined in Article __ (Investment – Definitions), except that, with respect to "loans" and "debt instruments" referred to in that Article:

- (a) a loan to or debt instrument issued by a financial institution is an investment

DRAFT

Subject to Legal Review for Clarity and Consistency

only where it is treated as regulatory capital by the Party in whose territory the institution is located; and

- (b) a loan granted by or debt instrument owned by a financial institution, other than a loan to or debt instrument of a financial institution referred to in subparagraph (a), is not an investment;

for greater certainty:

- (c) a loan granted by or debt instrument owned by a cross-border financial service supplier, other than a loan to or debt instrument issued by a financial institution, is an investment if such loan or debt instrument meets the criteria for investments set out in Article __ (Investment - Definitions).

investor of a Party means a Party or state enterprise thereof, or a person of that Party, that attempts to make, makes, or has made an investment;

person of a Party means “person of a Party” as defined in _____(general definitions) and, for greater certainty, does not include a branch of an institution of a non-party;

public entity means a central bank or monetary authority of a Party, or any financial institution owned or controlled by a Party that is principally engaged in carrying out governmental functions or activities for governmental purposes, not including an entity principally engaged in supplying financial services on commercial terms;

self-regulatory organization means any non-governmental body, including any securities or futures exchange or market, clearing agency, other organization or association, that exercises regulatory or supervisory authority over financial service suppliers or financial institutions, by statute or delegation from central, regional or local governments or authorities.

DRAFT

Subject to Legal Review for Clarity and ConsistencyANNEX 10.5.1: (RELATED TO ARTICLE ON CROSS-BORDER TRADE)Insurance and insurance-related services

1. The United States undertakes the obligations of Article 10.5 for the cross-border supply of or trade in financial services as defined in paragraph (a) of the definition of cross-border supply of financial services in Article 10.20 (Definitions) with respect to

(A) insurance of risks relating to:

(i) maritime shipping and commercial aviation and space launching and freight (including satellites), with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods and any liability arising therefrom; and

(ii) goods in international transit;

(B) reinsurance and retrocession, services auxiliary to insurance as referred to in item “d” of the definition of financial service, and insurance intermediation such as brokerage and agency as referred to in item “c” of the definition of financial service.

2. The United States undertakes the obligations of Article 10.5 for the cross-border supply of or trade in financial services as defined in paragraph (c) of the definition of cross-border supply of financial services in Article 10.20 (Definitions) with respect to insurance services.

Banking and other financial services (excluding insurance)

3. The United States undertakes the obligations of Article 10.5 with respect to the provision and transfer of financial information and financial data processing and related software as referred to in item “o” of the definition of financial service, and advisory and other auxiliary services, excluding intermediation, relating to banking and other financial services as referred to in item “p” of the definition of financial service.

Insurance and insurance-related services

1. Singapore undertakes the obligations of Article 10.5 for the cross-border supply of or trade in financial services as defined in paragraph (a) of the definition of “cross-border supply of a financial service or cross-border trade in financial services” in Article 10.20 (Definitions) with respect to:

(a) reinsurance and retrocession;

(b) services auxiliary to insurance comprising actuarial, loss adjustors, average adjustors and consultancy services;

DRAFT

Subject to Legal Review for Clarity and Consistency

- (c) insurance of “MAT” risks comprising
 - (A) maritime shipping and commercial aviation and space launching and freight (including satellites), with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods and any liability arising therefrom; and
 - (B) goods in international transit;
- (d) reinsurance intermediation by brokerages; and
- (e) MAT intermediation by brokerages.

2. Singapore undertakes the obligations of Article 10.5 for the cross-border supply of or trade in financial services as defined in paragraph (c) of the definition of “cross-border supply of a financial service or cross-border trade in financial services” in Article 10.20 (Definitions) with respect to services auxiliary to insurance comprising actuarial, loss adjustors, average adjustors and consultancy services.

Banking and other financial services (excluding insurance)

3. Singapore undertakes the obligations of Article 10.5 with respect to
- (a) financial leasing, provided that access to customer information of banks in Singapore is limited to financial institutions licensed in Singapore;
 - (b) provision and transfer of financial information;
 - (c) provision of financial data processing and related software;
 - (d) trading in money market instruments, foreign exchange, exchange rate and interest rate instruments with financial institutions in Singapore;
 - (e) corporate finance advisory services, offered:
 - i) to a related corporation or accredited investors only, provided that clients do not engage in public offerings of securities on the basis of such advice, and that such advice is not disclosed to clients' shareholders who are not accredited investors or to the public; or
 - ii) through a related corporation that is holding (or exempted from holding) a capital markets services license to advise on corporate finance under the Securities and Futures Act (Cap. 289); and
 - (f) advisory and other auxiliary services, excluding intermediation and services described in paragraph (e), relating to banking and other financial services referred to in item (p) in the definition of “financial service” in Article 10.20 to the extent that such services are permitted in the future by Singapore.

DRAFT

Subject to Legal Review for Clarity and Consistency

DRAFT

Subject to Legal Review for Clarity and ConsistencyANNEX 10.16 (RELATED TO THE ARTICLE ON THE FINANCIAL SERVICES COMMITTEE)

1. The Parties agree to consult, upon request by either Party, regarding any matter relating to:

- (a) the transfer of information in electronic or other form, into and out of a Party's territory, by a financial institution for data processing where such processing is required in the ordinary course of business;
- (b) the protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts.

Authorities Responsible for Financial Services

2. The authority of each Party responsible for financial services is:

- (a) for Singapore, the Monetary Authority of Singapore;
- (b) for the United States, the Department of the Treasury for banking and other financial services and [] for insurance services.

DRAFT

Subject to Legal Review for Clarity and ConsistencyANNEX 10.9.2: SPECIFIC COMMITMENTSSINGAPORE*Related to Article 10.1 (Scope and Coverage)*

1. The Financial Services chapter shall apply to the following services to the extent they are covered by the obligations of this chapter through application of the exception in Article 10.1.3:

- Sale and distribution services for government debt.

Related to Article 10.4 (Market Access)

2. Notwithstanding item 1 of the non-conforming measures related to banking listed in Singapore's [Schedule/Annex], Singapore commits to the approval, by entry into force of the Agreement, of one new full bank license and two additional customer service locations for a U.S. financial institution.

Related to Article 10.5 (Cross Border Trade)

3. No later than January 1, 2006, the Parties shall consult on further liberalization by Singapore of cross-border trade in the services described in paragraph 3(f) of [Singapore's Schedule to Annex 10.5.1.]

Related to Article 10.15 (Expedited Availability of Insurance Services)

4. For insurance, Singapore will not require product filing or approval other than for life insurance products, Central Provident Fund-related products and investment-linked products. Where product filing or approval is required, Singapore will allow the introduction of the product which will be deemed to be approved unless the product is disapproved within a reasonable time, endeavoring to do so within 30 days. Singapore will not maintain limitations on the number or frequency of product introductions. This specific commitment does not apply where the financial institution of a Party seeks to supply a new financial service pursuant to Article 10.6 (New Financial Services).

Related to Article 10.17 (Consultations)

5. No later than January 1, 2007, and every three years thereafter, the Parties shall consult concerning any existing limitations on acquisitions of control by United States financial institutions of Singapore-incorporated banks that are controlled by Singapore persons.

Related to Portfolio Management

6. Singapore will allow a financial institution (other than a trust company or insurance company), organized outside its territory, to provide investment advice and portfolio management services, excluding (1) custodial services, (2) trustee services, and (3) execution services that are not related to managing a collective investment scheme, to the manager of a collective investment scheme*, where the manager is

- (i) located in the territory of Singapore, and
- (ii) related** to the financial institution.

DRAFT

Subject to Legal Review for Clarity and Consistency

* For purposes of this commitment, a “collective investment scheme” has the meaning given to it under Section 2 of the Securities and Futures Act (Cap. 289).

** For purposes of this commitment, “related” means a related corporation as defined under Section 6 of the Companies Act (Cap. 50).

7. Singapore shall accord most-favored-nation treatment to U.S. financial institutions in the award of asset management mandates by the Government of Singapore Investment Corporation.

Related to Credit and Charge Cards

8. Singapore commits to consider applications for access to ATM networks operated by local banks for credit and charge cards of U.S.-controlled non-bank issuers.

UNITED STATES*Related to Article 10.1 (Scope and Coverage)*

1. The Financial Services chapter shall apply to the following services to the extent they are covered by the obligations of this chapter through application of the exception in Article 10.1.3:

- Fiscal agency or depository services, liquidation and management services for regulated financial institutions and sale and distribution services for government debt.

Related to Article 10.15 (Expedited Availability of Insurance Services)

2. Recognizing the principles of federalism under the U.S. Constitution, the history of state regulation of insurance in the United States, and the McCarran-Ferguson Act, the United States welcomes the efforts of the NAIC relating to the availability of insurance services as expressed in the NAIC’s “Statement of Intent: The Future of Insurance Regulation.”, including the initiatives on speed-to-market intentions and regulatory re-engineering (under Part II of the Statement of Intent). This specific commitment does not apply where the financial institution of a Party seeks to supply a new financial service pursuant to Article 10.6 (New Financial Services).

Related to Portfolio Management

3. The United States will allow a financial institution (other than a trust company or insurance company), organized outside its territory, to provide investment advice and portfolio management services, excluding (1) custodial services, (2) trustee services, and (3) execution services that are not related to managing a collective investment scheme, to a collective investment scheme* located in the territory of the United States.

* For purposes of this commitment, a “collective investment scheme” means an investment company registered with the Securities and Exchange Commission under the Investment Company Act of 1940.